

**ORDINANCE NO. 12-40**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A LOT COVERAGE OF 38%, WHERE A MAXIMUM OF 30% IS ALLOWED; AND ALLOW NO SIDE SETBACK, WHERE AT LEAST 4 FEET ARE REQUIRED, AND A REAR SETBACK OF 6.3 FEET, WHERE 25 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-546, 98-547, AND § 98-2056(b)(2). **PROPERTY LOCATED AT 1376 WEST 38 PLACE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of May 23, 2012 recommended approval of this ordinance; and

**WHEREAS**, the applicant proffers to maintain the proposed terrace open on three sides; to which the City accepts.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:**

**Section 1:** The below-described property is hereby granted a variance permit to allow a lot coverage of 38%, where a maximum of 30% is allowed, allow no east side setback for a distance of 15.75 feet, where at least 7.5 feet is required, and allow a rear setback of 6.3 feet, where 25 feet are required, for a proposed terrace, contra to Hialeah Code §§ 98-546, 98-547, and 98-2056(b)(2), which provide in pertinent part: “In the R-2 one- and two-family residential district, there shall be side yards, the width of each to be not less than ten percent the average width of the lot, but in no case shall each such side

yard be less than 7.5 feet in width”, “In the R-2 one- and two-family residential district, every principal residential building shall provide a rear yard of a minimum depth of 25 feet to a rear lot line or front of an accessory building...” and “A maximum of 30 percent of the net residential land area shall be covered with or occupied by the principal residential structure.”, respectively. Property located at 1376 West 38 Place, Hialeah, Miami-Dade County, Florida, zoned R-2 (One- and Two- Family Residential District), and legally described as follows:

CONDOMINIUM PARCEL NO.2, OF LUIS GRANDA  
CONDOMINIUM NO. 19, ACCORDING TO THE  
DECLARATION OF CONDOMINIUM THEREOF AS  
RECORDED IN OFFICIAL RECORDS BOOK 10984,  
PAGE 2799 OF THE PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

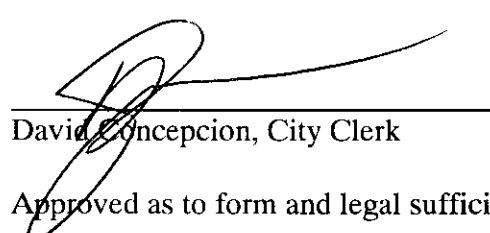
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 26th day of June, 2012.

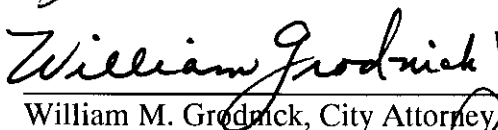
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President

Attest:

Approved on this 28th day of June, 2012.  
\_\_\_\_\_  
David Concepcion, City Clerk  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".